

REMARKS

Applicant confirms the election of Group I, claims 1-8. Applicant has withdrawn claims 9-13. Applicant reserves the right to file a divisional application(s) on the non-elected claims. Applicant has canceled claims 2-3 and 6-8 without prejudice or disclaimer. Applicant has amended claims 1, 4 and 5 for clarification purposes. Applicant requests the right to have the method claims rejoined upon the finding of allowance of claims 1, 4 or 5.

On page 8 of the Office Action, claims 1, 5-8 were rejected under 35, U.S.C. 102(b) as being anticipated by Nelson et al., U.S. Patent No. 5,922,715 ("Nelson"). Applicant submits that Nelson does not disclose an unstable, methyl-substituted (1,1 oxalyl diimidazole) high energy molecule capable of transferring energy to maximize the rate of attaining chemiluminescence in a fluorophore. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection.

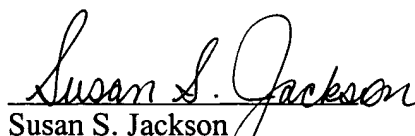
On page 9 of the Office Action, claims 1-8 were rejected under 35 U.S.C. 103(a) as being unpatentable over Appelblad reference from "Analytical Chemistry." Applicants respectfully disagree that the cited reference renders the present invention obvious for the following reasons. Applicant disagrees that it would be obvious to one of ordinary skill in the art to arrive at the present invention on the basis of having the expectation that structurally similar compounds would possess similar activity. Furthermore, the substitution of methyl instead of a hydrogen is not an obvious variant as contended in the Office Action. Applicant submits that unexpected results in chemiluminescence are achieved with the selection and position of methyl group. As shown on page 6 of the specification, four traits were evaluated: reaction time to form maximum concentrations of ODI derivatives, I_{max} (the maximum CL intensity), T_{max} (maximum time

seconds), and half-life of the unstable compound, seconds). As shown, the four traits differed with the reaction time to form maximum concentrations of ODI derivatives significantly shorter for OD4MI, namely 45. Thus, Applicants submit that it would not be obvious to one of ordinary skill in the art since the selection of the methyl group and the location of the methyl group significantly impacts the time to chemiluminescence. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection.

In response to the rejection under 35 U.S.C. 112, first paragraph, Applicants have defined the meaning of the abbreviated terms in the claims as suggested. Support is found on pages 4 and 5 of the specification. No new matter has been added. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection.

In view of the foregoing, it is respectfully urged that the pending claims are in condition for allowance and reconsideration is requested. An early notice to this effect is earnestly solicited. Should there be any questions regarding this application, the Examiner is invited to contact the undersigned at the number shown below.

Respectfully submitted,



Susan S. Jackson
Kennedy Covington Lobdell & Hickman, L.L.P.
Hearst Tower, 47th Floor
214 North Tryon Street
Charlotte, NC 28202
(704) 331-7410